

Notice of Allowability

Application No.
08/951,690

Applicant(s)
HERRICK

Examiner
Tram Nguyen

Group Art Unit
3738



All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance and Issue Fee Due or other appropriate communication will be mailed in due course.

☒ This communication is responsive to applicant's amendment of Dec 10, 1999

☒ The allowed claim(s) is/are 1-43

☒ The drawings filed on Mar 15, 1999 are acceptable.

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

A SHORTENED STATUTORY PERIOD FOR RESPONSE to comply with the requirements noted below is set to EXPIRE **THREE MONTHS FROM THE "DATE MAILED"** of this Office action. Failure to timely comply will result in ABANDONMENT of this application. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

☐ Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL APPLICATION, PTO-152, which discloses that the oath or declaration is deficient. A SUBSTITUTE OATH OR DECLARATION IS REQUIRED.

☒ Applicant MUST submit NEW FORMAL DRAWINGS

☐ because the originally filed drawings were declared by applicant to be informal.

☒ including changes required by the Notice of Draftsperson's Patent Drawing Review, PTO-948, attached hereto or to Paper No. 2.

☒ including changes required by the proposed drawing correction filed on Mar 15, 1999, which has been approved by the examiner.

☐ including changes required by the attached Examiner's Amendment/Comment.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the reverse side of the drawings. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

☐ Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Any response to this letter should include, in the upper right hand corner, the APPLICATION NUMBER (SERIES CODE/SERIAL NUMBER). If applicant has received a Notice of Allowance and Issue Fee Due, the ISSUE BATCH NUMBER and DATE of the NOTICE OF ALLOWANCE should also be included.

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s) _____

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

☐ Interview Summary, PTO-413

☐ Examiner's Amendment/Comment

☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material

☒ Examiner's Statement of Reasons for Allowance



~~Match & Return~~



Terminal Disclaimer

1. The terminal disclaimer filed on March 15, 1999 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent No. 5,723,005 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Allowable Subject Matter

2. Claims 1-43 are allowed.
3. The application having been allowed, formal drawings are required in response to this Office action.
4. The following is an examiner's statement of reasons for allowance:

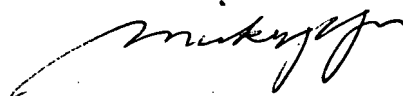
The prior art fails to disclose or teach an implant comprising an elongated member having a pair of ends and an outer surface wherein one of the pair of ends includes a thin elongated lip *which protrudes beyond the outer surface of the elongated member and is located approximately 300 degrees or less of the periphery of the elongated member leaving a posterior surface free from protruding into or from contacting with or abrading a surface of the eye including the cornea or conjunctiva*, the thin elongated lip being located on the elongated member to position the thin elongated lip in a generally anterior direction upon insertion in to a punctum opening to position the posterior surface away from a surface of an eye, the elongated member being formed of a dimension to pass through a punctum opening of an eye (emphasis added).

The prior art further fails to disclose or teach an implant comprising an elongated member having a pair of ends wherein one of the pair of ends terminates in a tip insertion section having a distal starting tip having a cross sectional dimension that penetrates a punctal opening defined by a fibrous tissue and wherein the distal starting tip has a selected length to pass through the punctal opening to enable the tip insertion section to gently expand the sphincter muscle defining the punctum opening into a generally oval shape. The instant invention is patentably distinct from Tajiri (U.S. Patent No. 5,423,777) in that Tajiri includes a bulb portion that stretches and elongates to facilitate pushing the plug into the duct (col. 4, lines 22-25), which is inapposite to the manner of insertion of the instant invention. Tajiri does not disclose or teach an implant wherein the tip insertion section is in the form of a collapsible flared section and has a distal starting tip which gently expands the sphincter muscle (i.e., not duct) defining the punctum opening to a dimension and shape sufficient for passing the tip insertion section.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

TAN

TAN
March 10, 2000



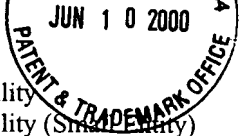
Mickey Yu
Supervisory Patent Examiner
Group 3700

Revision of Patent and Trademark Fees for Fiscal Year 2000
In view of the American Inventors Protection Act of 1999, Public Law 106-113

The following amendments to the fee amounts in 37 CFR 1.16, 1.20, and 1.492 shown below will be effective on December 29, 1999:

Patent Fees:

37 CFR



Sec.	Description	Current Fee Amount	New Fee Amount (Effective 12/29/99)
1.16(a)	Basic filing fee – Utility	\$760	\$690
1.16(a)	Basic filing fee – Utility (Small Entity)	\$380	\$345
1.16(a)	Basic filing fee – Utility (CPA)	\$760	\$690
1.16(a)	Basic filing fee – Utility (CPA) (Small Entity)	\$380	\$345
1.16(h)	Reissue filing fee	\$760	\$690
1.16(h)	Reissue filing fee (Small Entity)	\$380	\$345
1.16(h)	Reissue filing fee (CPA)	\$760	\$690
1.16(h)	Reissue filing fee (CPA) (Small Entity)	\$380	\$345
1.20(e)	Maintenance fee – due at 3.5 years	\$940	\$830
1.20(e)	Maintenance fee – due at 3.5 years (Small Entity)	\$470	\$415
1.492(a)(2)	ISA - U.S.	\$760	\$690
1.492(a)(2)	ISA - U.S. (Small Entity)	\$380	\$345

The following amendments to the fee amounts in 37 CFR 1.17 and 2.6 shown below will be effective on January 10, 2000:

Patent Fees:

37 CFR

Sec.	Description	Current Fee Amount	New Fee Amount (Effective 1/10/00)
1.17(r)	Filing a submission after final rejection (1.129(a))	\$760	\$690
1.17(r)	Filing a submission after final rejection (1.129(a)) (Small Entity)	\$380	\$345
1.17(s)	Per additional invention to be examined (1.129(b))	\$760	\$690
1.17(s)	Per additional invention to be examined (1.129(b)) (Small Entity)	\$380	\$345

Trademark Fees:

37 CFR

Sec.	Description	Current Fee Amount	New Fee Amount (Effective 1/10/00)
2.6(a)(1)	Application for registration, per class	\$245	\$325
2.6(a)(4)	Extension for filing Statement of Use, per class	\$100	\$150
2.6(a)(5)	Application for renewal, per class	\$300	\$400
2.6(a)(13)	Filing section 15 affidavit, per class	\$100	\$200
2.6(a)(16)	Petition for cancellation, per class	\$200	\$300
2.6(a)(17)	Notice of opposition, per class	\$200	\$300

Patent and trademark customers are responsible for paying the correct fee amounts. We advise our customers to refer to the official PTO Web site at www.uspto.gov or contact the PTO General Information Services Division at (703) 308-4357 or (800) PTO-9199 for the most current fee amounts and information.

Notice of References Cited			Application No. 08/951,690		Applicant(s) HERRICK	
			Examiner Tram Nguyen		Group Art Unit 3738	Page 1 of 1

U.S. PATENT DOCUMENTS						
*	DOCUMENT NO.	DATE	NAME	CLASS	SUBCLASS	
x	A	6,016,806	1/2000	WEBB	128	846
	B					
	C					
	D					
	E					
	F					
	G					
	H					
	I					
	J					
	K					
	L					
	M					

FOREIGN PATENT DOCUMENTS						
*	DOCUMENT NO.	DATE	COUNTRY	NAME	CLASS	SUBCLASS
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS	
*	DOCUMENT (Including Author, Title, Source, and Pertinent Pages)

* A copy of this reference is not being furnished with this Office action.
(See Manual of Patent Examining Procedure, Section 707.05(a).)